



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

REPLY TO ATTENTION OF:

SHS-11

BY TELEFAX

January 29, 1990

James Burton, P.E.
Weston, Incorporated
101 Corporate North, Suite 101
Route 22 and Lakeside Drive
Bannockburn, Illinois 60015

RE: PRP Response to Supplemental Work
Plan Approval Letter - ACS NPL Site

Dear Mr. Burton:

Concurrent with this letter, is a copy of the PRPs response to my letter of January 8, 1990, approving the supplemental work plan (SWP) for Phase II of the RI at the ACS site. As you know, the approval of the SWP included modifications to the existing SWP and RI/FS work plan, which are intended to be conditions to that approval. I am providing you with the copy of the PRPs response for two reasons: 1) to inform you of the PRPs response to my approval letter, which was of no surprise, and 2) to request from you some degree of help in determining the cost which EPA would incur if EPA performed the work which the PRPs currently find unfavorable.

According to the PRPs' letter, the work which the PRPs find unwarranted includes the installation of additional monitor wells where required, the collection of additional sediment samples, the collection of clay layer samples and the collection of additional aquifer matrix samples as needed. For the purposes of your calculation, I will estimate that an additional 2 monitor wells will be required, 5 additional sediment samples, 5 clay layer samples, and 3 additional aquifer matrix samples.

Your cost estimate should include a unit cost for each type of sample or installation. It should also include all the overhead and mobilization costs, and award fees so that I can determine if present funding which lies in the current budget can cover the additional costs to perform the sampling and analysis.

I would appreciate it if you could gather this information for me by this Thursday. If you have any questions please call me at (312) 886-5116.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert E. Swale", is written over the typed name.

Robert E. Swale, RPM

cc: Steve Siegal, ARC

Coffield Ungaretti Harris & Slavin

3500 Three First National Plaza, Chicago, Illinois 60602
Telephone: 312/977-4400 Telecopier: 312/977-4405
Cable: CUHSLAW, Telex: 270286

January 25, 1990

VIA MESSENGER

Steven Siegel, Esq.
United States Environmental Protection Agency
Region V
Office of Regional Counsel
111 West Jackson
3rd Floor
Chicago, Illinois 60604

Re: American Chemical Service CERCLA Site -- Griffith,
Indiana
Our File #10615-00001

Dear Mr. Siegel:

This letter is written on behalf of the PRPs to the Administrative Order by Consent respecting the above site (No. V-W-88-C-113) ("the Order") under which those PRPs agreed to perform the work specified in the EPA-approved Work Plan attached as Attachment C to the Order.

We are dismayed at the tone of the demands made by EPA in Robert Swale's letter of January 8, 1990, directed to Dr. Peter Vagt of Warzyn Engineering, Inc., the PRPs' Project Coordinator. In negotiating that Work Plan and Order, the PRPs were resolute not to obligate themselves to an open-ended investigation. For this reason, by mutual agreement, specific limitations were placed on the type of work to be performed in both Phase I and Phase II of the Work Plan. These limitations, as Ms. Puchalski of your office can attest, were not intended to imply that the PRP group will not consider doing work different than or in addition to that specified by the Work Plan if circumstances in the field arise warranting a change to the Work Plan. Rather, they were included as protection so that any decision to deviate from the terms of the Order would be by the mutual consent of the PRP group and EPA -- and not by mere Agency dictate. The Order provides that if agreement can not be reached on an expansion of the scope of the Work Plan, as desired by EPA, that the Agency remains free to perform the work itself.

Steven Siegel, Esq.
January 25, 1990
Page 2

Recognizing that the Agency representatives who negotiated both the Order and the Work Plan are no longer associated with this Project, it nonetheless appears clear that those currently assigned to the file may have lost sight of the express language, purpose and spirit of the Order. We ask that this Project receive the immediate attention of those required to put it back on track before additional unnecessary time and expense is wasted.

Following completion and review of the Phase I sampling, Warzyn and the Technical Subcommittee of the ACS Steering Committee have worked long and hard with EPA to evaluate those changes to Phase II of the Work Plan desired by EPA's RPM. Several meetings have transpired which, in the minds of the PRP group, culminated in mutual agreement as to the additional steps which would be taken in Phase II. (The changes to the Work Plan to which the PRP group has agreed, we might add, increase the cost of the RI/FS by tens of thousands of dollars beyond what is required by the Order). Subsequently, Warzyn detailed the mutual understanding of the Project Managers in a Phase II RI/FS Supplemental Work Plan (what Mr. Swale refers to in his letter as the Work Plan Addendum), submitted to the Agency on November 28, 1989 for concurrence.

As you might imagine, in light of the events described above, we were quite surprised to receive the Agency's January 8, 1990 letter purporting to "approve" the Supplemental Work Plan by unilaterally modifying it to include additional sampling and terms outside the scope of the parties' understanding. EPA's attempt to unilaterally modify the Supplemental Work Plan in significant respects certainly leads us to again question whether our efforts to work cooperatively with EPA have been wasted. Accordingly, we ask that you again review our Supplemental Work Plan (including the revisions we are prepared to make as detailed in this letter) and approve it without further expansion of the scope of work specified in the Work Plan. We ask that this "review" be undertaken as to avoid invoking the Dispute Resolution provisions of the Order, bearing in mind Section XII.C. of the Order, which limits Respondents' obligations to implementing only those modifications "within the scope of the RI/FS Work Plan."

Steven Siegel, Esq.
January 25, 1990
Page 3

In the remainder of this correspondence, we respond to the particular additional modifications desired by EPA beyond those to which Respondents have agreed, as set forth in the Supplemental Work Plan.

1. Groundwater and Surface Water Flow Direction
(Paragraph 2)

Our Project Manager hopes to reach consensus on a mutually agreeable approach to this exercise and certainly believes, as does EPA, that 8-12 groundwater measurement devices, and a single round of measurements, will be sufficient. If it is not, we can revisit the issue at that time and it will be resolved, hopefully in the field, as we previously have resolved other issues of a technical nature. We all are interested in good science leading to a sound RI/FS. The PRPs, however, cannot do what the Work Plan specifically was intended to prevent; namely, allowing EPA to unilaterally modify and expand the Project at the Respondents' expense.

2. (Paragraph 4, Page 3)

We do not agree to allow EPA "approval" of the model as a term of the Addendum. Again, we anticipate that consensus will be reached on the model to be used.

3. Contaminant Plume Delineation

Warzyn has advised us that collecting samples from the clay confining layer is unnecessary and ill-advised.

The Agency's apparent reliance on Freeze and Cherry, Groundwater (1979) at page 332 appears to be misplaced. The purpose of the cited section is to discuss methods used by hydrogeologists to measure and assess the productivity of aquifers. The purpose of the chapter is unrelated to aquifer contamination or water quality. The cited reference makes the following argument:

When pumping from a confined aquifer, drawdown within the aquifer can cause a vertical gradient to develop into an aquifer from the overlying aquitard. If this does occur, water will be supplied to the aquifer from the aquitard, which is to say that water will leak from the aquitard into the aquifer.

Steven Siegel, Esq.
January 25, 1990
Page 4

The cited reference does not add any information which was not already known or suspected at the time when the approved scope of work was developed. At that time, it was understood that there was likely to be a strong downward gradient between the upper and lower aquifer, that there might be leakage into the aquifer from the confining layer above, and that the upper aquifer was likely to be highly contaminated in certain areas. As a consequence, the approved Work Plan provided for the collection of sufficient data to calculate migration rates and seepage volumes through the clay liner.

The data specified to be collected during Phase I and II of the investigation includes: collection and permeability testing of samples of the clay layer, installation of upper and lower aquifer monitoring wells, collection of water levels to calculate vertical gradients across the clay liner, collection of water levels to calculate horizontal gradients in the lower aquifer, and the collection of groundwater samples downgradient of the site in the lower aquifer to indicate whether there has been any lower aquifer affect. In addition, the Supplemental Work Plan, which Warzyn has submitted to the EPA at the PRP group's direction, includes the collection and chemical analysis of aquifer materials from within the highly contaminated zone. The results of these analyses will be used in the assessment of migration rates of the contaminants within the aquifer, the effect of the contaminants on the aquitard matrix, and the migration rates through the aquitard.

In any case, Warzyn cannot imagine what information or data would result from sampling the confining layer, which would change the Remedial Action Alternatives which will be considered and evaluated for the site. Therefore, the information is unnecessary for completing the RI/FS.

Representatives of the U.S. EPA, Weston, and Warzyn, recognized at the time the Work Plan was being developed, that drilling through the confining layer is ill-advised. Therefore, the Work Plan was developed in a phased approach to minimize the dangers associated with puncturing the confining layer. The installation of lower aquifer monitoring wells, which would require drilling through the confining layer, was scheduled for Phase II, after the distribution of upper aquifer contaminants was understood (3rd paragraph, Page 4-10 of 36, Work Plan).

Steven Siegel, Esq.
January 25, 1990
Page 5

It is understood that the U.S. EPA assumes that the clay samples could be collected without penetrating the clay layer. However, the U.S. EPA's assumption is not warranted by the existing data, a single boring made by ATEC for installation of a monitoring well which indicates that the clay is approximately 11 feet thick in the northwest section of the ACS facility. In any case, confirming the clay thickness elsewhere is crucial before drilling any significant depth into it. The approved Work Plan recognizes the need for this further definition of the stratigraphy beneath the site (Section 4.4.1, Page 4-19 of 36, Work Plan).

4. Contaminant Plume Delineation (Paragraphs 1 & 4)

As per our comments above, the limitations specified in the Work Plan remain and additional wells or samples will be determined thereafter by consensus, not EPA fiat.

5. Contaminant Plume Delineation (Groundwater Sampling Paragraph 2)

We are willing to consider your desired modification for full parameter testing for second round samples from all Phase I wells. However, this requested revision to the Supplemental Work Plan will increase the cost of the work initially agreed to by another \$20,000. This means that tests outside of the scope of the Work Plan may cost the Respondents in excess of \$50,000. Therefore, we will instruct Warzyn to make this desired revision provided EPA waives its claim against Respondents for oversight costs through September 1, 1989, as previously requested in your correspondence dated October 5, 1989. (The Respondents have yet to receive itemization for these costs, as requested in my letter to you dated November 22, 1989.)

6. Delineation of Surface Water Sediment Contamination

The approved Work Plan included the collection and analysis of up to 20 soil samples in Phase II of the investigation to further define the lateral and vertical extent of soil contamination at the site. (Section 4.4.2, page 4-20 of 36).

Steven Siegel, Esq.
January 25, 1990
Page 6

By agreement between Respondents and EPA, 10 samples originally allocated to Phase I, were not collected during the Phase I investigation. These included 6 surface water samples and 4 soil area samples. The Supplemental Work Plan proposes to reallocate the 10 samples not collected during Phase I, to Phase II, for a total of 30 solid matrix samples for Phase II.

In Section E of the Supplemental Work Plan, it is proposed to reallocate 5 of the un-used Phase II samples to further characterize surficial contamination in the adjacent surface water areas and drainageways surrounding the site and along the railroad between the Griffith Landfill and the marshy area to the north. In Section B of the Supplemental Work Plan, it is proposed to reallocate the other 5 un-used Phase I samples to characterize the chemical properties of the aquifer, within the known contaminant plume area.

Warzyn believes that five samples is sufficient to obtain statistically significant analysis to characterize surficial contamination in the drainageways and wetlands. The Work Plan does not require or contemplate sampling at this juncture to establish design parameters for remediation. In any case, it is premature to conduct sediment sampling west of the site prior to the meeting you propose with the Fish and Wildlife Service. (See No. 7 below).

Notwithstanding, if it is EPA's desire to use all 10 of the un-used Phase I samples for characterization of surface water/sediment west of the site, please advise us and we will instruct Warzyn to revise the Supplemental Work Plan accordingly.

7. Wetlands Delineation

We look forward to the meeting you propose for next month.

8. Figure 1

Warzyn has been instructed to revise the Supplemental Work Plan in accordance with your request.

9. QAPP Addendum, Table 1

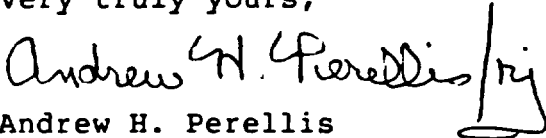
See comment 5, above.

Coffield Ungaretti Harris & Slavin

Steven Siegel, Esq.
January 25, 1990
Page 7

In conclusion, the Respondents are prepared to perform the work required by the Order and as specified in the Supplemental Work Plan prepared by Warzyn. We await your approval of the Supplemental Work Plan as initially submitted and with the above-specified revisions.

Very truly yours,


Andrew H. Perellis

AHP:cc
ahp0314

cc: ACS Steering Committee Members
Joseph D. Adams, P.E.
Peter Vagt, Ph.D.

Coffield Ungaretti Harris & Slavin

Steven Siegel, Esq.
January 25, 1990
Page 8

Betty/ahp0314/rmk/01/10/90/8:08 p.m.
Revised/01/12/90/11:45/cc
Revised/01/12/90/12:30/cc
Revised 01/15/90/12:25 p.m./rzj
Revised/ 01/15/90/1:46 p.m./rzj
Revised/01/17/90/2:25/cc
Revised/01/18/90/12:45/cc
Revised/01/25/90/12:00/cc
Revised 01/25/90/2:43 p.m./rzj